

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION**

**JOHN B. TERRELL**

**PLAINTIFF**

**VS.**

**CIVIL ACTION NO.: 3:04cv537LN**

**MALCOLM MCMILLIN, CARL  
MEDLOCK, WILLIE JOHNSON  
and RUTH WYATT**

**DEFENDANT**

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**ORDER**

The undersigned entered a Report and Recommendation in this matter on November 7, 2005, recommending dismissal of this case for failure to prosecute. The basis for the recommendation was the Plaintiff's failure to respond to an Order entered on August 16, 2005, granting the Plaintiff until September 20, 2005, to show good cause for failing to serve process on the Defendants. The Plaintiff has served an Objection to that Report and Recommendation, stating that he was informed by someone in the Clerk's office that process would be served for him. For the reasons that follow, the undersigned withdraws his earlier Report and Recommendation and orders process to be re-issued for the Defendants in this case.

The court denied the Plaintiff's Application to Proceed *in forma pauperis* on August 10, 2004, and he paid his filing fee on August 23. Because he is not proceeding *in forma pauperis*, the United States Marshal has no obligation to serve process for him. Since it appears that the Plaintiff has not understood this process, the court will order that process be re-issued for the Defendants in this matter and that the summonses be mailed to the Plaintiff. He may then make arrangements with a process server or some other individual to serve the Defendants.

IT IS, THEREFORE, ORDERED that the earlier Report and Recommendation entered on

November 7, 2005, in this matter is hereby withdrawn.

IT IS FURTHER ORDERED that process be re-issued for the Defendants in this matter and that the summonses be mailed to the Plaintiff for service on them.

This the 29th day of November, 2005.

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S/Alfred G. Nicols, Jr.  
UNITED STATES MAGISTRATE JUDGE